

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2535 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

B G VIDJA, LAVANA RANTILA SAMUDAYIK SAHKARI KHETI MANDLI

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioner

MR VB GHARANIA for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/01/97

C.A.V. JUDGEMENT

1. The petitioner, President, Lavana Rantila Samudayik Sahkari Kheti Mandali, filed this writ petition before this court and challenge is made to the order Annexure 'O' dated 7-2-1985 of the Collector, Banaskantha Dist. Palanpur under which the allotment of the land admeasuring 150 acres of Survey No.229 has been cancelled.

2. The petitioner-Mandali which is a registered cooperative Society consisting of members of schedule caste and schedule tribe made a request to the Government for allotment of agricultural land to it. The Government under the 20 point programme allotted to the Mandali, the land admeasuring 150 acres of Survey No.229 of Village Lavana of Taluka Deodar under the order dated 6-2-1978. On this land, the trees were standing and the costs thereof as calculated by the respondent has to be paid by the petitioner, but that was not paid and the allotment was ordered to be cancelled by the respondent vide order dated 23-2-1984. That order was challenged by the petitioner before this court by filing Special Civil Application No.4962/84. This petition was decided by this court on 18th October, 1984 and the order dated 23rd February, 1984 was set aside. It has been observed in the order that it will be open to the Government to take appropriate action in accordance with law after affording an opportunity of hearing to the petitioner. Then the petitioner was given an opportunity of hearing and after hearing them the order impugned in this Special Civil Application has been made.

3. The counsel for the petitioner contended that the petitioner is ready and willing to pay the amount of the price of the trees which is fixed by the Government. At the relevant time this amount was estimated at Rs.58260/-, but the Mandali has not paid the said amount. This court has given the direction to the Government to get the estimation of the cost price of the standing trees on the land, and Shri V.B. Gharania, the counsel who is appearing for the respondent has given out that this cost is about Rs.1 lac, and Shri Girish Patel, the counsel for the petitioner states that the petitioners are ready to make the payment of the amount of Rs.1 lac, however a reasonable time may be granted to them for payment thereof. From the order dated 7th February, 1985, it is clear that the only ground of nonpayment of the amount of the price of the trees standing on the land was taken for cancellation of the allotment of the land in favour of the petitioner. No other ground has been made. It is true that the petitioner was under an obligation to make the payment of the price of the trees standing on the land, and it is also equally true that the petitioner has not paid the amount, but this court cannot be oblivious of the fact that the ground for cancellation was only the nonpayment of the price of the trees. Though at one point of time, the petitioners were not in a position to make the payment of the price of the trees and now they are ready and willing to pay the amount, I fail to see any justification to allow the

impugned order to stand more so when the petitioner is in the possession of the land under the interim order of this court dated 17th April, 1985 for all these years.

4. In the result, this Special Civil Application is allowed and the order dated 7th February, 1985 is set aside subject to the condition that the petitioner shall make the payment of Rs.1 lac as price of the trees standing on the land on or before 14th April, 1997. It shall be open to the petitioner to make the payment of this amount in installments, but the complete amount should be paid by 14th April, 1997. In case the amount is not paid on or before 14th April, 1997 then this Special Civil Application shall stand dismissed, rule shall stand discharged, interim relief granted by this court shall stand vacated automatically and it shall be open to the respondent to take the possession of the land from the petitioner. Rule is made absolute in the aforesaid terms with no order as to costs.

zgs/-